IN THE BOMBAY HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.410 OF 2003

Shri.Sanjaykumar Omprakash Kukreja
through his Constituted Attorney
Shri.Rajendra Prasad Singh. ... Petitioner.

vs.

M/s.Narayandas Bindumal ... Respondent.

Mr.Y.R.Dube, for Petitioner.

Mr.G.R.Dwivedi, for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 22nd March, 2005.

P.C.:-

1. By this petition, the petitioner challenges the Award made by the Arbitrator dated 9th July,1999. As per the Award, a notice was issued to the petitioner alongwith the list of panel of Arbitrators, asking him to

appoint his nominee on the Arbitral Tribunal. The letter was sent by registered post AD. The letter returned back with the endorsement “left”. Obviously, the endorsement on the acknowledgment/receipt shows that the notice was not served on the petitioner, still the Vice President of the Association appointed the Arbitrator on 19.2.1999. Obviously, the appointment of the Arbitrator is improper and illegal because it was made by the Vice President of the Association without serving the notice on the petitioner. The service of subsequent notices from the Arbitrator on the petitioner will not cure the defect in the appointment of the Arbitrator which was made without serving proper notice on the petitioner. As the appointment of the Arbitrator itself was without notice to the petitioner, the Award made by the Arbitrator cannot be said to be legal. The Award therefore, is liable to be set aside. It is accordingly, set aside. The Respondent is directed to pay costs of the petition to the petitioner as incurred by the petitioner.

22.3.2005 ---